

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In Re: Toyota Motor Corp. Unintended
Acceleration Marketing, Sales
Practices, and Products Liability
Litigation

This document relates to:

ALL CASES (See Exhibit A)

CASE NO: **8:10ML2151 JVS (FMOx)**

ORDER NO. 1: INITIAL
CONFERENCE

Date: May 13, 2010

Time: 9:00 a.m.

Place: 411 W. Fourth Street,
Santa Ana, CA 92701
Court Room 10C

By order of the Judicial Panel on Multidistrict Litigation (J.P.M.L.), the actions listed in Exhibit A were transferred and assigned to this Court for coordinated or consolidated pretrial proceedings under 28 U.S.C. § 1407. Additional tag-along actions may be transferred.

Because these cases merit special attention as complex litigation, the Court
ORDERS:

April 14, 2010

1 1. *Conference.* Counsel for all parties shall appear for a conference on May
2 13, 2010 at 9:00 a.m. in Courtroom 10C of the Ronald Reagan Federal Building
3 and U.S. Courthouse at 411 W. Fourth Street, Santa Ana, CA, 92701. The
4 conference will be held for the purposes specified in Fed. R. Civ. P. 16(a), 16(b),
5 16(c), 16(f), and 26(f). Counsel are requested to check in with the Courtroom
6 Deputy at least 15 minutes in advance.

7
8 2. *Preliminary Thoughts.* The Court provides the following preliminary
9 thoughts in order to assist counsel in focusing on the immediate issues presented
10 by these cases. These thoughts are of course subject to revision upon submission
11 of the views of the parties and counsel, which the Court invites.

12
13 2.1. *Structure.* Because this docket involves both personal injury actions
14 and actions for economic loss, the Court believes a somewhat unique structure is
15 required.

16 • The Court envisions appointment of a liaison counsel or liaison
17 counsel committee to manage the core discovery requirements for the personal
18 injury actions. By core discovery, the Court means discovery of the development,
19 marketing, sales, manufacture, and administration of the Toyota products and
20 product programs at issue in this case. Because each personal injury action will
21 undoubtedly entail discovery unique to that action, the Court believes that each
22 plaintiff's counsel will have a role in addressing those needs. To the extent
23 possible, individual case needs will be combined and coordinated with core
24 discovery.

25
26 • The Court envisions appointment of one or more counsel to act as
27 lead counsel for the economic loss cases. Lead counsel would also act as liaison to

1 counsel for the economic loss cases. Lead counsel would have the responsibility of
2 preparing a consolidated complaint covering the issues in all the economic loss
3 cases.

4
5 • The Court envisions appointment of a core discovery committee,
6 comprised of counsel with liaison responsibility for the personal injury cases and
7 counsel having lead counsel responsibility for the economic loss cases. The
8 committee would be responsible for identifying and conducting core discovery.
9 Along with counsel for the Toyota parties, the core discovery committee would
10 have the responsibility of drafting and presenting to the Court an overall
11 scheduling plan, which would include a discovery plan. The Court envisions that
12 the scheduling plan would address at least the issues set forth in Exhibit B hereto.

13
14 2.2. *Immediate Goals.* The goals of the Scheduling Conference are three-
15 fold: adoption of a structure for organizing the docket, appointment of counsel to
16 fill out the structure, and adoption of a working definition of core discovery.

17
18 2.3. *Next Step.* With the goals of the initial Scheduling Conference in place,
19 the Court will set a further conference in approximately 30 days to consider the
20 adoption of an overall scheduling plan, including a discovery plan.

21
22 2.4. *Role of Counsel.* The management of this docket holds unique
23 challenges. The Court looks forward to benefitting from the knowledge and
24 experience of seasoned counsel to arrive at solutions which will ensure the orderly
25 preparation of these cases. Counsel, the parties and the Court will all need to work
26 collaboratively.

27 3. *Particulars of the Scheduling Conference.*

28 April 14, 2010

1 3.1. *Representation.* Parties with similar interests may (but are not required
2 to) agree on a single attorney, or a limited number of attorneys, to act on their joint
3 behalf at the conference. A party will not, by designating an attorney to represent
4 his or her interests at the conference, be precluded from other representation during
5 the litigation. Attendance at the conference will not waive objections to
6 jurisdiction, service, or like matters. Telephonic appearances will not be permitted.

7
8 3.2. *Other Counsel.* This Order is being mailed to the persons shown on
9 Exhibit A, which has been prepared from the list of counsel making appearances
10 with the J.P.M.L. Counsel on this list are requested to forward a copy of this Order
11 to other attorneys who should be notified of the conference. An updated service
12 list will be prepared after the conference.

13
14 3.3. *Other Parties.* Persons who are not named as parties in this litigation
15 but may later be joined as parties, and persons who are parties in related litigation
16 pending in other federal and state courts, are invited to attend in person or by
17 counsel.

18 4. *Preparations for the Scheduling Conference.*

19
20 4.1. *Rules.* Counsel are expected to be familiar with the Manual for
21 Complex Litigation, Fourth. Counsel are also required to review the Local Rules
22 for the Central District of California, General Orders 08-02 (electronic filing) and
23 08-11(electronic filing), and this Court's general procedures, all of which may be
24 found on the Central District of California website at www.cacd.uscourts.gov.

25
26 4. 2. *Initial Conference of Counsel.* Before the conference, counsel shall
27 confer and seek consensus to the extent possible concerning the immediate issues

1 and any other matters they wish to bring to the Court at this time. The Court
2 designates:

3
4 Steve W. Berman, Esq.
5 Hagens Berman Sobol Shapiro LLP
6 1918 Eighth Avenue, Suite 3300
7 Seattle, WA 98101

8
9 Elizabeth J. Cabraser, Esq.
10 Lief Cabraser Heimann & Bernstein, LLP
11 275 Battery Street, Suite 3000
12 San Francisco, CA 94111

13
14 Cari K. Dawson, Esq.
15 Alston & Byrd LLP
16 1201 West Peachtree Street
17 Atlanta, GA 30309

18
19 Marc M. Seltzer, Esq.
20 Susman Godfrey LLP
21 1901 Avenue of the Stars, Suite 950
22 Los Angeles, CA 90067

23 These temporary designations are not a precursor of future appointments, but
24 simply a means to initiate the process. The Court expects that all counsel desiring
25 to do so will have a full opportunity to participate in the discussion and the report
26 which the Court requests.

27
28 April 14, 2010

1 4.3. *Preliminary Report.* Counsel will submit to the Court by Friday, April
2 30, 2010, a report including the following:

- 3 • Proposed structure of counsel.
- 4 • Definition of core discovery.
- 5 • A brief statement of counsel's understanding of the facts and the critical
6 legal issues. Any potentially dispositive issues should be separately identified.
7 These statements will not be binding, will not waive claims or defenses, and may
8 not be offered into evidence against a party in later proceedings.
- 9 • A list of all pending motions.
- 10 • A list of all outstanding discovery.
- 11 • A list of all known related cases pending in state or federal court and their
12 current status.
- 13 • A list of all parents, subsidiaries, and companies affiliated with the
14 corporate parties and of all counsel associated in the litigation to help the Court
15 identify any problems of recusal or disqualification.

16 Where possible, the Court urges counsel to set forth their views in a single report
17 which notes both consensus views and divergent views where that is the case. Any
18 party may supplement the report with a filing of no more than ten pages.

19 5. *Interim Measures.*

20 April 14, 2010

1 5.1. *Admission of Counsel.* All attorneys admitted to practice and in good
2 standing in any United States District Court are admitted *pro hac vice*. Association
3 of local counsel is not required. If not already registered, counsel will need to
4 register for electronic filing (CM/ECF) in the Central District of California. (More
5 information can be found on the Court's website and in General Orders 08-02 and
6 08-11).

7
8 5.2. *Preservation of Records.* Until the parties reach agreement on a plan
9 for preservation of records, all parties and their counsel must preserve all evidence
10 that may be relevant to these actions.

11
12 5.3. *Stay of Motions Practice.* Except for motions for emergency relief, no
13 motion shall be filed until and in accordance with the Scheduling Order.

14
15 5.4 *Motions.* No motion shall be filed under Rule 11, 12, or 56 without
16 leave of court and unless it includes a certificate that the movant has conferred with
17 opposing counsel in a good faith effort to resolve the matter without court action.

18 5.5 *Orders of Transferor Courts.* All orders by transferor courts imposing
19 dates for pleading or discovery are vacated.

20
21 5.6. *Chambers Mail Box.* The Court maintains an electronic mail box for
22 communications with the Courtroom Deputy and for receipt of proposed orders in
23 electronic format (either Word or WordPerfect). The electronic mail box for this
24 docket is: JVS_ToyotaMDL@cacd.uscourts.gov.

25
26 5.7. *Website.* The Court has established a web page accessible from the
27 first page of the Court's website (click on "IN RE: TOYOTA MOTOR CORP.").

1 The Court will regularly post copies of orders, notices and other items of interest to
2 the page.

3
4 6. *Later Filed Cases.* This Order shall also apply to related cases later filed
5 in, removed to, or transferred to this Court.

6
7 7. *Applications for Lead and Liaison Counsel Appointments.* As noted
8 above, the Court presently intends to appoint plaintiffs' lead counsel and liaison
9 counsel. Applications for these positions must be filed with the clerk's office on
10 or before April 30, 2010. The Court will only consider attorneys who have filed an
11 action in this litigation. The main criteria for these appointments are (1) knowledge
12 and experience in prosecuting complex litigation, including class actions; (2)
13 willingness and ability to commit to a time-consuming process; (3) ability to work
14 cooperatively with others; and (4) access to sufficient resources to prosecute the
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1 litigation in a timely manner. Where appropriate, applications should also set forth
2 attorney fee proposals, rates, and percentages that applicants expect to seek if the
3 litigation succeeds in creating a common fund.

4
5 IT IS SO ORDERED.

6
7 Dated: April 14, 2010


8 
9 James V. Selna
United States District Judge

Exhibit A

Individual Cases

**IN RE: TOYOTA MOTOR CORP. UNINTENDED
ACCELERATION MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY LITIGATION MDL No. 2151**

Central District of California

2:09CV08143 JVS(FMOx) Seong Bae Choi et al v. Toyota Motor Corporation et al
2:09CV08478 JVS(FMOx) Eric Kmetz et al v. Toyota Motor Sales, U.S.A., Inc. et al
2:09CV09158 JVS(FMOx) Heather A. Lane v. Toyota Motor Sales, U.S.A., Inc.
2:09CV09386 JVS(FMOx) Dale Baldisseri v. Toyota Motor Sales U.S.A., Inc., et al.
2:10CV00706 JVS(FMOx) Adilia Aviles v. Toyota Motor Sales, U.S.A., Inc.
2:10CV00710 JVS(FMOx) Roz Schwartz v. Toyota Motor Sales, U.S.A., Inc.
2:10CV00799 JVS(FMOx) Matthew Marr, et al v. Toyota Motor Sales, U.S.A., Inc.
2:10CV00849 JVS(FMOx) Ani Gazaryan et al v. Toyota Motor Sales U.S.A., Inc. et
al
2:10CV00942 JVS(FMOx) Peter Wisner v. Toyota Motor Corporation et al
2:10CV00946 JVS(FMOx) Lisa Creighton, et al v. Toyota Motor Sales U.S.A., Inc.
et al
2:10CV00947 JVS(FMOx) Elaine Byrnes v. Toyota Motor Sales U.S.A., Inc. et al
2:10CV01030 JVS(FMOx) Lacey Ludicina, et al v. Toyota Motor Sales U.S.A., Inc.
et al
2:10CV01039 JVS(FMOx) Rhonda Talbot v. Toyota Motor Sales U.S.A., Inc. et al
2:10CV01057 JVS(FMOx) Jacqueline Donoghue v. Toyota Motor Sales, U.S.A.,
Inc.
2:10CV01073 JVS(FMOx) Max L. Lieberman et al v. Toyota Motor Corporation et

al

2:10CV01078 JVS(FMOx) Teresa B. Myers et al v. Toyota Motor Corporation et al

2:10CV01094 JVS(FMOx) Kerri Madden v. Toyota Motor Corporation et al

2:10CV01153 JVS(FMOx) Katy Boyask v. Toyota Motor Corporation et al

2:10CV01154 JVS(FMOx) Jessica M. Kramer v. Toyota Motor North America, Inc.
et al

2:10CV01234 JVS(FMOx) Joseph Hauter v. Toyota Motor Sales, U.S.A., Inc.

2:10CV01247 JVS(FMOx) Sam Goldberger v. Toyota Motor Sales, U.S.A., Inc.

2:10CV01248 JVS(FMOx) Lu Li v. Toyota Motor North America, Inc. et al

2:10CV01264 JVS(FMOx) Gloria Park v. Toyota Motor Sales, U.S.A., Inc.

2:10CV01290 JVS(FMOx) Sandra Livingston v. Toyota Motor North America, Inc.
et al

2:10CV01349 JVS(FMOx) Ernest Cornell v. Toyota Motor Corporation et al

2:10CV01364 JVS(FMOx) Robert Booher v. Toyota Motor North America, Inc. et
al

2:10CV01366 JVS(FMOx) Harry Williams v. Toyota Motor North America, Inc. et
al

2:10CV01429 JVS(FMOx) Tom Mustric v. Toyota Motor Corporation et al "

2:10CV01452 JVS(FMOx) Kathryn A. Squires v. Toyota Motor Corporation et al

2:10CV01584 JVS(FMOx) Andrew Flury et al v. Toyota Motor North America, Inc.
et al

2:10CV01650 JVS(FMOx) Judy Warren, DDS v. Toyota Motor North America, Inc.
et al

2:10CV01753 JVS(FMOx) Lorrie Krieger v. Toyota Motor North America, Inc. et al

2:10CV01756 JVS(FMOx) David Hanna v. Toyota Motor North America, Inc. et al

2:10CV01806 JVS(FMOx) Joseph Christian v. Toyota Motor North America, Inc. et
al

2:10CV01821 JVS(FMOx) Mary Jo Crank, et al v. Toyota Motor North America, Inc. et al

2:10CV01822 JVS(FMOx) Nellie Yazitchyan, et al v. Toyota Motor North America, Inc. et al

2:10CV01825 JVS(FMOx) Walter McKinney, et al v. Toyota Motor North America, Inc. et al

2:10CV01939 JVS(FMOx) Linda Tang v. Toyota Motor Sales, U.S.A., Inc. et al

2:10CV01979 JVS(FMOx) Meredith Heller v. Toyota Motor Corporation. et al

2:10CV01997 JVS(FMOx) Jerome Cangelosi v. Toyota Motor North America. et al

2:10CV02021 JVS(FMOx) Thomas E. Gudmundson v. Toyota Motor Corporation. et al

2:10CV02022 JVS(FMOx) Donald Graham v. Toyota Motor Corporation. et al

2:10CV02023 JVS(FMOx) John Flook v. Toyota Motor Corporation. et al

2:10CV02077 JVS(FMOx) Rodney Josephson v. Toyota Motor Corporation. et al

2:10CV02078 JVS(FMOx) Gary Davis v. Toyota Motor Corporation. et al

2:10CV02080 JVS(FMOx) Ebony Brown v. Toyota Motor Corporation. et al

2:10CV02147 JVS(FMOx) Elizabeth Van Zyl v. Toyota Motor Corporation. et al

2:10CV02179 JVS(FMOx) Grace Shigematsu, et al v. Toyota Motor Corporation. et al

2:10CV02228 JVS(FMOx) Ellyn J. Broden v. Toyota Motor Corporation. et al

2:10CV02262 JVS(FMOx) Karen Bickel v. Toyota Motor Corporation. et al

2:10CV02264 JVS(FMOx) Sam Goldberger v. Toyota Motor Corporation. et al

2:10CV02271 JVS(FMOx) Christine Hotaling v. Toyota Motor Corporation. et al

2:10CV02272 JVS(FMOx) Henry Troup, et al v. Toyota Motor Corporation. et al

2:10CV02274 JVS(FMOx) Linda Summerville v. Toyota Motor Corporation. et al

2:10CV02276 JVS(FMOx) Robert Navarro v. Toyota Motor Corporation. et al

2:10CV02284 JVS(FMOx) Gary Brown v. Toyota Motor Corporation. et al

8:10CV00105 JVS(FMOx) Joseph Hauter v. Toyota Motor Sales, U.S.A., Inc.

1 8:10CV00154 JVS(FMOx) Michael Choi, et. al. v. Toyota Motor Sales, U.S.A., Inc.

2 8:10CV00173 JVS(FMOx) Alexsandra Del Real v. Toyota Motor Sales, U.S.A., Inc.

3 8:10CV00183 JVS(FMOx) T. Leigh Beard, et. al. v. Toyota Motor Sales, U.S.A.,

4 Inc.

5 8:10CV00312 JVS(FMOx) Green Spot Motors v. Toyota Motor Corporation et al

6 8:10CV00328 JVS(FMOx) Dawn De Vincenzi v. Toyota Motor Corporation. et al

7 8:10CV00380 JVS(FMOx) Jean Dominquez v. Toyota Motor Corporation. et al

8 8:10CV00385 JVS(FMOx) Meetesh Shah v. Toyota Motor Corporation. et al

9
10 **Middle District of Florida**

11 8:10CV00464-JVS(FMOx) Michelle Lynch v. Toyota Motor Corp., et al.

12 **Southern District of Florida**

13 8:10CV00465-JVS(FMOx) Jonathan Gellman v. Toyota Motor Sales U.S.A., Inc.

14
15 **Eastern District of Louisiana**

16 8:10CV00466-JVS(FMOx) Daniel Weimer, Jr., et al. v. Toyota Motor North
17 America, Inc., et al.

18 8:10CV00467-JVS(FMOx) Amanda R. Maillho v. Toyota Motor North America,
19 Inc., et al.

20 8:10CV00468-JVS(FMOx) Gary T. Brock v. Toyota Motor North America, Inc., et
21 al., C.A. No. 2:10-281

22
23 **Southern District of West Virginia**

24 8:10CV00469-JVS(FMOx) Michael Graves, et al. v. Toyota Motor Manufacturing,
25 West Virginia, Inc., et al.

Exhibit B

Issues for Scheduling Conference Order

General Matters, including:

- Overview of the case: the key factual and legal issues, including any unusual substantive, procedural, or evidentiary issues
- Proposals for accomplishing the goals described in Rule 16(a) of the Federal Rules of Civil Procedure
- Positions concerning the applicable topics described in Rule 16(c)
- Possible need for a consolidated pleading
- Requirements and expectations concerning compliance with the Federal Rules, the Local Rules for the Central District, and this Court's orders, rules, and procedures
- Jurisdictional issues, including whether any actions should be remanded to state courts
- Possible need for coordination with actions pending in state courts or with other categories of potentially related cases in federal court (e.g., securities cases).
- The service list

Motion Practice, including:

- Description and status of pending motions
- Description of presently anticipated motions
- Motion cut-off and briefing schedules
- Procedures for class certification motions
- Compliance with the Local Rules and this Court's orders re motions

Discovery and Disclosures, including:

- Dates and procedures for disclosures
- Subjects where discovery may be needed
- Sequencing of discovery
- Discovery cut-off dates(s) and whether discovery should be conducted in phases, or limited, or focused on particular issues
- Existence of trade secrets or other privileged materials, and possible need for a protective order
- Possible need for orders for the preservation of documents

- Possible need for a document depository
- Document numbering system
- Changes to the limitations on discovery imposed by the Federal Rules
- Provisions for disclosure or discovery of electronically stored information
- Expert discovery
- Procedures for resolving discovery disputes, including appointment of a special master
- **Settlement**, including:
 - The nature and extent of discovery that must be completed before meaningful settlement discussions
 - Appropriate dispute resolution mechanism
- **Timetable**, including:
 - Overall timetable for completing the docket
 - Interim benchmarks and targets for tasks